



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



June 3, 2004

**Certified Mail
Return Receipt Requested**

**Letter of Deficiency
No. WMD 04-09**

Mark Evangelista
Liberty Site Development and Demolition, LLC
P.O. Box 217
Plaistow, NH 03865

SUBJECT: 343 Island Pond Road, Derry, NH

Dear Mr. Evangelista:

On August 20, 2003, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Liberty Site Development and Demolition, LLC ("Liberty") located at 343 Island Pond Road, Derry, NH ("Site"). The purpose of the inspection was to determine Liberty's compliance status with RSA 149-M and rules adopted pursuant thereto relative to the proper management of solid waste.

During the August 20, 2003 inspection, DES personnel learned that Liberty parks vehicles loaded with solid waste at the Site while awaiting disposal. Mr. Evangelista informed DES personnel that loaded vehicles are parked overnight but the waste is never removed from the vehicle/roll-off.

On October 30, 2003, DES personnel conducted a follow-up inspection of the Site. DES personnel observed two Liberty roll-off containers; one of which contained scrap metals and the other contained lobster traps. The Site owner stated that the roll-off with the lobster traps had been on Site since Tuesday, October 28, 2003.

On November 5, 2003, DES personnel contacted Mr. Evangelista. Mr. Evangelista stated the roll-off observed by DES personnel on October 30, 2003, containing scrap metal was being filled by Russell Dickey, Sr., Site owner. Mr. Evangelista stated that the roll-off with the lobster traps had been removed from the Site. Mr. Evangelista stated that he did not place roll-offs containing waste on the ground.

On April 8, 2004, DES personnel conducted a follow-up inspection at the Site. DES personnel learned or observed the following:

1. Approximately 20 truck tires stored on the ground next to Liberty's storage trailer, as well as approximately 30 tires on a low bed trailer.

2. The following roll-off containers on the ground at the Site:

- a. Roll-off 20-002 contained construction and demolition debris. According to Mr. Dickey this roll-off had been at the Site for three 3 days.
- b. Unnumbered roll-off contained construction and demolition debris. According to Mr. Dickey this roll-off had been at the Site for seven to ten days.
- c. Roll-off 15-004 contained construction and demolition debris. According to Mr. Dickey this roll-off had been at the Site for approximate two to three weeks.
- d. Unnumbered roll-off contained construction and demolition debris as well as other solid waste, specifically paper, wood, cardboard, wire, and vinyl siding.
- e. Roll-off 30-005 contained roofing shingles, wood, household debris, five tires, and paper. According to Mr. Dickey this roll-off had been at the Site for more than one week.
- f. Roll-off 25 contained cement blocks and dirt.
- g. Roll-off 30-007 contained brush and untreated wood.
- h. Roll-off 20004 contained construction and demolition debris. According to Mr. Dickey this roll-off had been at the Site for the entire winter.

3. A Liberty truck dropping a roll-off containing steel, axles, old drums, a tire, and a bed spring. The driver informed DES personnel that he had dropped the other containers with contents at the Site two days ago. The driver informed DES personnel that four of the roll-offs would be removed the following day.

On April 29, 2004, DES personnel conducted a follow-up inspection at the Site. DES personnel learned or observed the following:

1. Approximately 20 truck tires stored on the ground next to Liberty's storage trailer, as well as approximately 30 tires on a low bed trailer.

2. The following roll-off containers on the ground at the Site:

- a. Roll-off 20-002: empty
- b. Two Unnumbered roll-offs: empty
- c. Roll-off 21-001: empty
- d. Roll-off 30-013 contained bricks and metal
- e. Roll-off 30-005: empty
- f. Roll-off 25 contained cement blocks and dirt.
- g. Roll-off 30-007 contained brush and untreated wood.
- h. Roll-off 20-009: empty

This letter serves to inform you that the above referenced Site conditions constitute violations of RSA 149-M, specifically:

RSA 149-M:9, I	Operating an unpermitted solid waste facility.
Env-Wm 2108.06	Failure to manage solid waste in-transit in accordance with the solid waste rules.
Env-Wm 2605.02	Failure to manage scrap tires in accordance with the solid waste rules.

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DES believes that the cited deficiencies can be corrected by completing the following requested actions within the time indicated:

1. **Immediately** cease operating an unpermitted solid waste facility.
2. **Immediately** ensure that all wastes in-transit are managed in accordance with Env-Wm 2108.06; specifically ensure containers are covered, no waste is added or removed from the container while at the storage facility, no more than 150 cubic yards of waste is stored at the storage facility, and the waste is not stored for longer than four days from receipt.
3. **Within 14 days** the date of this letter, ensure that all tires which belong to Liberty at the Site are stored in accordance with Env-Wm 2605.02.
4. **By June 11, 2004**, submit to DES written confirmation that these steps have been completed at the address below.

Please address all correspondence and reports regarding this matter to:

Cheryl McGary
Special Investigations Section
Department of Environmental Services
P.O. Box 95
Concord, NH 03302-0095
e-mail: cmcgary@des.state.nh.us
telephone: 271-3899

In the event compliance is not achieved within the time period indicated above, DES may initiate formal enforcement action against Liberty's including issuing an order requiring the deficiencies to be corrected and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. DES reserves the right to pursue administrative fines for the violation(s) noted above.

Your prompt cooperation is appreciated. Please contact Cheryl McGary at (603) 271-3899 if you have any questions or need further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth W. Marschner", is written over a large, bold, black "COPY" stamp.

Kenneth W. Marschner
Administrator
Waste Management Programs

cc: DB/File
Anthony P. Giunta, P.G., Director, WMD
Gretchen R. Hamel, Legal Unit Administrator
Michael Guilfooy, SWMB
Town Clerk, Derry, NH

Enclosures: Env-Wm 2108 and Env-Wm 2605